

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1205 Charter County Transit System Surtax
SPONSOR(S): Economic Development & Community Affairs Policy Council, Braynon
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 2210

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------|--|-------------------------|----------------|-----------------------|
| Orig. Comm.: | <u>Military & Local Affairs Policy Committee</u> | <u>14 Y, 0 N, As CS</u> | <u>Nelson</u> | <u>Hoagland</u> |
| 1) | <u>Economic Development & Community Affairs Policy Council</u> | <u>14 Y, 0 N, As CS</u> | <u>Nelson</u> | <u>Tinker</u> |
| 2) | <u>Finance & Tax Council</u> | | <u>Wilson</u> | <u>Langston</u> |
| 3) | <u></u> | | | |
| 4) | <u></u> | | | |
| 5) | <u></u> | | | |

SUMMARY ANALYSIS

The Charter County Transit System Surtax authorizes certain charter counties to levy a maximum one percent sales surtax subject to a referendum. Permitted uses of the revenues include financing the development, construction and operation of fixed guideway, rapid transit systems, bus systems, roads and bridges. The charter county may deposit the surtax revenues into a trust fund, remit the revenues to an expressway or transportation authority, or apply them directly to permitted uses. The proceeds also may be distributed by interlocal agreement to municipalities or an expressway or transportation authority.

This bill renames the Charter County Transit System Surtax as the “Charter County Transportation System Surtax. “ The bill extends eligibility to levy the surtax to 13 additional charter counties by removing an existing provision requiring charter adoption prior to January 1, 1984. The bill also allows proceeds of the surtax to be remitted to transit authorities for specified uses.

Additionally, the bill requires a charter county that has entered into interlocal agreements for distribution of transit system surtax proceeds with one or more of its municipalities to revise these interlocal agreements no less than every five years to include municipalities created since the prior agreements were executed.

The Revenue Estimating Conference (REC) has not analyzed this bill. However, staff estimates that the provisions of this bill would have an indeterminate positive fiscal impact on local governments that levy the surtax.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Charter Counties

Article VIII, s. 1(g) of the State Constitution, provides that "counties operating under county charters shall have such power of self government as is provided by general or special law." Counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors. Currently, 20 of Florida's counties are charter counties.

| County | Year Charter Adopted | Number of Municipalities | 2008 Population* |
|--------------|----------------------|--------------------------|------------------|
| Alachua | 1987 | 9 | 252,388 |
| Brevard | 1994 | 16 | 556,213 |
| Broward | 1975 | 31 | 1,758,494 |
| Charlotte | 1986 | 1 | 165,781 |
| Clay | 1991 | 4 | 185,168 |
| Columbia | 2002 | 2 | 66,121 |
| Duval | 1968 | 5 | 904,971 |
| Hillsborough | 1983 | 3 | 1,200,541 |
| Lee | 1996 | 5 | 623,725 |
| Leon | 2002 | 1 | 274,892 |
| Miami-Dade | 1957 | 35 | 2,477,289 |
| Orange | 1987 | 13 | 1,114,979 |
| Osceola | 1992 | 2 | 273,709 |
| Palm Beach | 1985 | 38 | 1,294,654 |
| Pinellas | 1980 | 24 | 938,461 |
| Polk | 1998 | 17 | 585,733 |
| Sarasota | 1971 | 4 | 393,608 |
| Seminole | 1989 | 7 | 426,413 |
| Volusia | 1971 | 17 | 510,750 |
| Wakulla | 2008 | 2 | 30,717 |

* Bureau of Economic and Business Research , 2008, University of Florida

Discretionary Sales Surtaxes

Section 212.055, F.S., authorizes counties to impose seven local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rentals and admissions. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose the surtax. Additionally, the tax is not subject to a sales amount above \$5,000 on any item of tangible personal property or on long distance telephone service. This \$5,000 cap does not apply to the sale of any other service. The Florida Department of Revenue is responsible for administering, collecting and enforcing all sales taxes. Collections are returned to the county imposing the tax on a monthly basis.

These local discretionary sales surtaxes include:

| Tax | Authorized Levy (%) | Counties Authorized | Counties Levying |
|--|-----------------------------|----------------------------|-------------------------|
| Charter County Transit System Surtax | up to 1% | 7 | 2 |
| Local Government Infrastructure Surtax | 0.5% or 1% | 67 | 21 |
| Small County Surtax | 0.5% or 1% | 31 | 28 |
| Indigent Care & Trauma Center Surtax | up to 0.25%, 0.5% | 65 | 1 |
| County Public Hospital Surtax | 0.5% (Miami-Dade County) | 1 | 1 |
| School Capital Outlay Surtax | up to 0.5% | 67 | 16 |
| Voter-Approved Indigent Care Surtax | 0.5% or 1% | 60 | 4 |

Source: 2008 Florida Tax Handbook, Including Fiscal Impact of Potential Changes

Not all counties are eligible to impose each of these seven surtaxes. Also, several taxes are subject to a 1% limitation on the combined tax rate that may be levied in a county.¹ Depending on the county, the maximum potential county levy rate for these surtaxes ranges from 1.5 percent to 2.5 percent. The highest maximum currently applies to seven charter counties in Florida.²

Charter County Transit System Surtax

The Charter County Transit System Surtax was created to allow charter counties the ability to levy a maximum one percent sales surtax to finance the development, construction and operation of fixed guideway, rapid transit systems. This section of law has been amended several times since it was created, so that currently only counties with charters adopted prior to January 1, 1984, may seek to levy the surtax. The proposal to levy the surtax and create a trust fund for surtax proceeds must appear on a ballot and receive the approval of a majority of the county electorate. Further amendments to the statute have expanded the permitted use of the revenues to finance additional types of transportation infrastructure, to allow for the following permitted uses:

- development, operation, maintenance and expansion of bus or fixed guideway systems;
- development, construction, operation or maintenance of roads or bridges; and
- pledges to bonds issued for these purposes.

¹ Pursuant to ss. 212.055(2)(h) and 212.055(3)(f), F.S., a county shall not levy the Local Government Infrastructure, Small County, Indigent Care and Trauma Center, and County Public Hospital surtaxes in excess of a combined rate of 1%.

² Section 212.055, F.S., provides that the charter counties eligible to levy the Charter County Transit System Surtax are those counties that adopted a charter prior to January 1, 1984, and those that are consolidated with one or more municipalities. The seven counties that meet these requirements are as follows: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota, and Volusia. The 13 charter counties not eligible to levy this tax are as follows: Alachua, Brevard, Charlotte, Clay, Columbia, Lee, Leon, Orange, Osceola, Palm Beach, Polk, Seminole, and Wakulla.

A charter county may deposit the surtax revenues into its trust fund, remit the revenues to an expressway or transportation authority, or apply them directly to permitted uses. The proceeds may also be distributed by interlocal agreement to municipalities or an expressway or transportation authority to be expended for authorized purposes.

Seven counties are eligible to levy the surtax:

- Broward,
- Duval,
- Hillsborough,
- Miami-Dade,
- Pinellas,
- Sarasota and
- Volusia.

Only two of these counties have levied the surtax: Duval (since 1989), and Miami-Dade (since 2003).

Duval and Miami-Dade Counties each levy a half-cent sales surtax. During fiscal year 2007-2008, Duval and Miami-Dade counties collected \$64.57 million and \$168.46 million, respectively.³

Miami-Dade County

On November 5, 2002, Miami-Dade County voters approved the half-cent sales surtax to be used for the expansion and enhancement of the county's transit and transportation network. The county agreed to dedicate 20 percent of the charter county transit system surtax proceeds to municipal governments, and entered into interlocal agreements with these entities. Since that time, the cities of Doral (2003), Miami Gardens (2003) and Cutler Bay (2005) have incorporated. The county has not executed similar interlocal agreements with these newly-formed cities.

Effect of Proposed Changes

This bill renames the Charter County Transit System Surtax as the "Charter County Transportation System Surtax." The bill extends eligibility to levy the surtax to 13 additional charter counties by removing an existing provision requiring charter adoption prior to January 1, 1984. The bill also allows proceeds of the surtax to be remitted to transit authorities for specified uses.

Additionally, the bill requires a county that has entered into interlocal agreements for distribution of charter county transit system surtax proceeds with one or more of its municipalities to revise such interlocal agreements no less than every five years in order to include any municipalities that have been created since the prior interlocal agreements were executed.

The Charter County Transit System Surtax is not subject to an overall or combined surtax rate limitation, so the maximum possible combined sales surtax rate in the 13 affected charter counties will increase by 1 percentage point.

The bill has an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055, F.S., relating to discretionary sales surtaxes.

Section 2: Provides an effective date.

³ Data provided by the Legislative Committee on Intergovernmental Relations.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference (REC) has not analyzed this bill. However, staff estimates that that the provisions of this bill would have an indeterminate positive fiscal impact on local governments that levy the surtax.

2. Expenditures:

Staff also estimates that counties considering the imposition of this surtax may incur costs to hold the referendum and to implement the provisions of this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Should a charter county enact the Charter County Transportation System Surtax, consumers in that county would be subject to an additional tax.

D. FISCAL COMMENTS:

The bill will allow newly-incorporated cities in counties that levy the surtax to participate in the distribution of proceeds where the county previously has agreed to such via an interlocal agreement with one or more of its municipalities. While a revised interlocal agreement will provide a positive fiscal impact for new entities to the agreement, sharing proceeds of the surtax with additional municipalities may cause the funds to current recipients to be reduced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Renegotiating intergovernmental agreements may be complicated by bonding efforts.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGE

On May 26, 2009, the Military & Local Affairs Policy Committee approved its Proposed Committee Substitute to HB 1205.

On April 14, 2009, the Economic Development & Community Affairs Policy Council adopted a Council Substitute which renames the surtax as the "Charter County Transportation System Surtax"; extends eligibility to levy the surtax to 13 additional charter counties by removing an existing provision requiring charter adoption prior to January 1, 1984; and allows proceeds of the surtax to be remitted to transit authorities for specified uses. This analysis reflects the Council Substitute.